



RIGHTS STUFF

A Publication of The City of Bloomington
Human Rights Commission

City of Bloomington

January 2012

Volume 149

City Reminds Residents to Keep Sidewalks, Ramps Clear of Snow

The City of Bloomington Housing and Neighborhood Development Department (HAND) reminds you to keep your sidewalks, including walks and ramps leading to crosswalks, clear for pedestrian safety during the winter months.

Under the Bloomington Municipal Code, property owners must remove snow and ice from their sidewalks within 24 hours following the accumulation of snow or ice. Not complying with this ordinance could result in significant injuries to pedestrians commuting throughout the community and potential fines for property owners.

Tips for removing snow and ice from sidewalks include the following:

Shovel carefully. Do not lift too much or you may strain your back. Clear the snow down to the sidewalk surface. If snowfall begins with a layer of ice, residents may want to consider spreading sand or cinders to help remove the ice and aid in traction. Break away heavy ice

with an ice chipper or straight edge hoe. Deep digging may result in damage to the sidewalk. A good shovel with an ergonomic handle is a valuable tool when attempting to clear snow or ice.

HAND also reminds residents to plan ahead. Those leaving Bloomington during the winter months should make arrangements to ensure their walks are kept clear. Residents with health concerns should talk to neighbors, neighborhood associations or churches about receiving assistance. The City also would like to remind residents that keeping sidewalks and ramps clear of snow and ice is especially important for our neighbors with mobility-related issues.

For more information on the sidewalk ordinance, please contact HAND at 349-3420.

City Commission on the Status of Women Seeks Nominations For Yearly Awards

The City of Bloomington Commission on the Status of Women is seeking nominees for the Woman of the Year, Emerging Leader and Lifetime Contribution Awards. The deadline for submission of nominations is January 27, 2012. The awards will be presented during Women's History Month in March 2012.

The Woman of the Year Award is presented to a woman who has improved the quality of life for other women through inspiration, community service or professional accomplishments above and/or outside normal job responsibilities. The recipient is always someone who serves as a positive role model for girls and women and has made outstanding contributions to the community.

The Lifetime Contribution Award recognizes a woman whose work has significantly advanced the status of women through leadership and service. The Emerging

Leader Award acknowledges a woman with a relatively short (less than five years) history of significant achievements and recognizes the potential for her future contributions.

Nomination forms are available in the City of Bloomington's Community and Family Resources Department, Suite 260 and online at www.bloomington.in.gov/csw or contact Sue Owens at owenss@bloomington.in.gov, or 349-3468.

Nominations should include the name, address, telephone number and e-mail address of the nominee in addition to the reasons why the nominee merits the award. The nominator also should include his or her name, address, telephone number and e-mail address.

BHRC Staff

Barbara E. McKinney,
Director

Barbara Toddy,
Secretary

Veronica Corsaro,
Editorial assistant

Commission Members

Dorothy Granger, Chair

Byron Bangert, Vice Chair

Prof. Carolyn Calloway-Thomas

Valeri Haughton

Michael Molenda

Amy Jackson

Teri Guhl

Mayor
Mark Kruzan

Corporation Counsel
Margie Rice

BHRC
PO BOX 100
Bloomington IN
47402
349-3429
human.rights@bloomington.in.gov



Holiday Controversies Continue

Just about every year, there are controversies about what, if any, religious symbols may be placed in public squares. One recent controversy in Loudoun County, Virginia, is especially interesting.

In November of 2009, the county announced that it was not going to allow any holiday displays in the area around the courthouse, including the manger scene that had been displayed in past years. People voiced their unhappiness with that decision, and so the Board of Supervisors changed its mind. It would allow 10 displays at 10 specific locations on the courthouse lawn, first come, first served. They would not discriminate on the basis of content.

By March of 2011, all ten spaces had been taken. The displays included the following:

--Two nativity scenes;

--A sign showing a picture of the Easter Bunny, Santa and Jesus, with the words "Myths for Young and Old;"

--A banner saying "Celebrating Our Constitution" and language about keeping church and state separate;

--A banner promoting "reason in the holiday season,"

--A holiday display that will be either a tree of knowledge or a holiday message sign,

--A sign with a letter from Jesus;

--A piece of work depicting Santa on a cross. The artist, Jeff Heflin, Jr., said he wanted to make a statement about "society's materialistic obsessions and addictions and how it is killing the peace, love, joy and kindness that is supposed to be prevalent during the holiday season."

--And two signs about the Church of the Flying Spaghetti Monster. The FSM church is hard to explain briefly. If you are interested in learning more, please try an Internet search.

Of course, this display attracted controversy as well, especially the Santa on a cross. One citizen said that he felt it was a "direct attack" on the faithful and that it was "about as close as you come to a burning cross as I have ever seen." After the outcry, the artist quickly took it down.

May a School Prohibit a Counseling Student From Expressing Her Views on Homosexuality to Clients?

Jennifer Keeton sought a master's degree in school counseling from the Counselor Education Program at Augusta State University. She said she is a Christian who is committed to the truth of the Bible. Her faith leads her to believe that sexual behavior is a result of a personal choice, that gender is fixed and binary (male or female) and that the gay/lesbian/bisexual/transgender population suffers from identity confusion. She said she intended to attempt to convert her future client- students from being homosexual to being heterosexual. If a student told her he was questioning his sexual orientation, she would tell him it's not ok to be gay.

ASU, relying on the American Counseling Association's Code of Ethics, told Keeton that she had to go through remediation if she wanted to stay in its counseling program. The code of ethics says that counselors

have to respect their clients' dignity and may not discriminate. The school's suggested remediation program would have required Keeton to attend at least three workshops on cross-cultural communication, read at least 10 articles in peer-reviewed counseling or psychological journals on improving counseling effectiveness with the GLBT population, work to increase her exposure and interaction with the GLBT population by, for instance, attending a gay pride parade, familiarize herself with the Association for Lesbian, Gay, Bisexual and Transgender Issues in Counseling Competencies for Counseling Gay and Transgender Clients and write a two-page reflection every month summarizing what she had learned.

Initially, Keeton agreed to comply with the remediation program, but

then withdrew from the school, saying "I am not going to agree to a remediation plan that I already know I won't be able to successfully complete." She then sued the school, alleging religious discrimination, and lost.

First, she argued that the school discriminated against her because of her viewpoint on homosexuality. The Court said in this kind of non-public forum – a supervised learning experience – the school had the right to impose restrictions on speech that are reasonable and viewpoint neutral. The Court said the school imposed the rules not because of Keeton's views on homosexuality but because she expressed an intent to impose her personal religious views on clients, in violation of the code of ethics.

Continued page 3



What Should an Employee Do If an Applicant Can't Provide a Urine Sample?

Sharif K. Thompson applied for a supervisor job with G2 Secure Staff, a Texas-based staffing company. He successfully completed all of the requirements for obtaining the position, with the exception of submitting to a test of his urine for drugs. He has end-stage renal disease, meaning his kidneys no longer function and he cannot urinate.

Mr. Thompson asked G2 if he could take the drug test using a hair sample rather than urinalysis as an accommodation for his disability. G2 refused and declined to hire him. He sued.

As a result of a settlement negotiated by the EEOC, G2 will pay Mr. Thompson \$30,000. G2 also agreed to not retaliate against anyone who complains about discrimination, to revise its equal opportunity policy so

that it include a procedure for requesting a reasonable accommodation, to post a notice about the settlement and to conduct ADA training for supervisors.

The BHRC recently investigated a similar case in which a woman could not provide a urine sample, but offered to have the employer test her blood for drugs instead. Like G2, the employer refused. The BHRC negotiated a settlement on the woman's behalf.

It's important for employers to remember the purpose of its requirements. The purpose of a urine test is obviously not to prove that the applicant is able to produce urine. The purpose of a urine test is to determine if the applicant is using drugs, and there are other ways to make that determination besides

requiring the applicant to urinate in a cup.

If you have questions about the ADA, please contact the BHRC.

Department of Labor Proposes Extending Legal Protections to In-Home Care Providers

In the United States, about 1.79 million people provide in-home care services to people who are elderly or who have disabilities. To date, they have not been covered by minimum wage rules or overtime pay under the Fair Labor Standards Act. But in December of 2011, the U.S. Department of Labor proposed extending such coverage to in-home workers who are employed by a third party. In-home workers who are employed directly by the family would still be exempt from FLSA.

According to the Department of Labor, the workers who would be affected by these proposed changes are predominantly female and a significant number of them are members of minority groups. Many such workers, despite working a difficult and demanding job, are eligible for public benefits such as food stamps and Medicaid. Some of them provide specialized services including wound care, tube feeding and physical therapy.

Hilda Solis, the DOL Secretary, said that extending minimum wage and overtime benefits to these workers is "crucial to the quality of life for many families." President Obama, in making the announcement, said that "Today's action will ensure that these men and women get paid fairly for a service that a growing number of Americans could not live without."

Counseling student cont from pg. 2

No one told her she had to change her personal beliefs; they just told her she had to refrain from imposing those beliefs on others. The Court said that she was confusing "her viewpoint-based objections to ASU's officials' actions with viewpoint discrimination." Keeton did not have a "constitutional right to disregard the limits ASU has established for its clinical practicum and set her own standards for counseling clients in the clinical practicum."

Second, Keeton argued that the school retaliated against her because she had stated her personal beliefs. The Court said the record showed ASU was requiring her to go through remediation not because of her personal views regarding homosexuality but because she was unwilling to comply with the code of ethics.

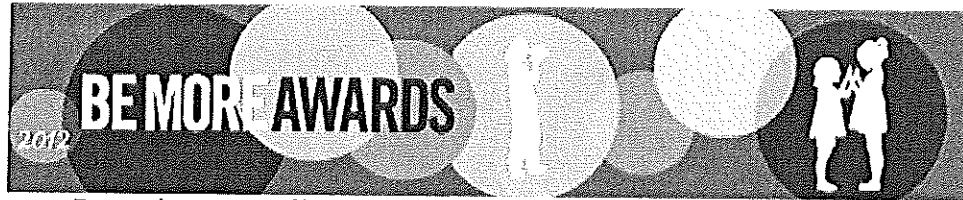
Finally, she argued that the remediation program would have unconstitutionally compelled her to express beliefs with

which she disagrees. The Court said nothing was compelling her to profess a belief with which she disagrees. What ASU was requiring her to do was separate her personal beliefs from her work. If a client is trying to figure out if something is moral, it's the counselor's job to help the client make that determination for himself, not to tell the client the answer. The Court said that "[j]ust as a medical school would be permitted to bar a student who refused to administer blood transfusions for religious reasons, so ASU may prohibit Keeton from participating in its clinical practicum if she refuses to administer the treatment it has deemed appropriate. Every profession has its own ethical codes and dictates. When someone voluntarily chooses to enter a profession, he or she must agree to comply with its rules and ethical requirements."

The case is Keeton v. Anderson-Wiley, 2011 WL 6275932 (11th Cir. 2011).



Nominate A Volunteer!



Tuesday, April 3 + 7PM + Buskirk-Chumley Theater

Join the community in honoring and applauding the outstanding, but too often unrecognized, efforts of our community volunteers by nominating a volunteer for a Be More Award. You may view details, learn about requirements for eligibility and submit your nomination online at bloomington.in.gov/bemore. The deadline for submitting nominations is 5 p.m. on Wednesday, February 1, 2012.

The City of Bloomington Volunteer Network will recognize winning volunteers at the annual Be More Awards Celebration, to be held at 7 p.m. on April 3, 2012, in the Buskirk-Chumley Theater. Each honored volunteer's organization will win a \$500 cash award.

If you have questions, please contact Bet Savich at 349-3472 or volunteer@bloomington.in.gov.

The rental for the theater is sponsored in part by the City of Bloomington and BEAD's Buskirk-Chumley theater grant program. Partners for the Be More Awards celebration include the City of Bloomington Volunteer Network, Community Foundation of Bloomington and Monroe County, the IU Credit Union, United Way of Monroe County and WTIU.